

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2089

Introduced by Assembly Member Alejo

February 23, 2012

An act to amend Section 626 of, and to add Section 626.2 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2089, as amended, Alejo. Juveniles: civil citation process.

Under existing law, a peace officer may take a minor into temporary custody without a warrant under specified circumstances, including when the officer has reasonable cause to believe that the minor has committed a crime and is within the jurisdiction of the juvenile court, and may release the minor, deliver the minor to a services agency, release the minor with a notice to appear before a probation officer, or promptly take the minor before a probation officer. Proceedings to declare a minor a ward of the court are commenced by the filing of a petition by a probation officer, district attorney, or prosecuting attorney.

This bill would authorize a peace officer who takes a minor suspected of having committed a misdemeanor into temporary custody without a warrant to issue a civil citation to the minor if the minor consents, ~~admits to having committed the misdemeanor,~~ and has not previously committed an offense. Under the bill, the officer would notify the county probation department, to which the minor would report within 7 days. The bill would require the probation department to assess the minor and to require the minor to serve no more than 50 hours of community

service. The probation department would also be authorized to require the minor to participate in intervention programs. If the minor fails to report to the probation department or to fulfill the requirements of the civil citation program, this bill requires the probation department to present an affidavit with the facts constituting the original misdemeanor to the prosecuting attorney. By imposing new duties on county probation departments, and by increasing those departments' duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 626 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 626. An officer who takes a minor into temporary custody
- 4 under the provisions of Section 625 may do any of the following:
- 5 (a) Release the minor.
- 6 (b) Deliver or refer the minor to a public or private agency with
- 7 which the city or county has an agreement or plan to provide shelter
- 8 care, counseling, or diversion services to minors so delivered.
- 9 (c) Issue a civil citation to the minor under Section 626.2 if the
- 10 minor is eligible to participate in the civil citation program.
- 11 (d) Prepare in duplicate a written notice to appear before the
- 12 probation officer of the county in which the minor was taken into
- 13 custody at a time and place specified in the notice. The notice shall
- 14 also contain a concise statement of the reasons the minor was taken
- 15 into custody. The officer shall deliver one copy of the notice to
- 16 the minor or to a parent, guardian, or responsible relative of the
- 17 minor and may require the minor or the minor's parent, guardian,
- 18 or relative, or both, to sign a written promise to appear at the time
- 19 and place designated in the notice. Upon the execution of the
- 20 promise to appear, the officer shall immediately release the minor.

1 The officer shall, as soon as practicable, file one copy of the notice
2 with the probation officer. The written notice to appear may require
3 that the minor be fingerprinted, photographed, or both, upon the
4 minor's appearance before the probation officer, if the minor is a
5 person described in Section 602 and he or she was taken into
6 custody upon reasonable cause for the commission of a felony.

7 (e) Take the minor without unnecessary delay before the
8 probation officer of the county in which the minor was taken into
9 custody, or in which the minor resides, or in which the acts take
10 place or the circumstances exist which are alleged to bring the
11 minor within the provisions of Section 601 or 602, and deliver the
12 custody of the minor to the probation officer. The peace officer
13 shall prepare a concise written statement of the probable cause for
14 taking the minor into temporary custody and the reasons the minor
15 was taken into custody and shall provide the statement to the
16 probation officer at the time the minor is delivered to the probation
17 officer. In no case shall the officer delay the delivery of the minor
18 to the probation officer for more than 24 hours if the minor has
19 been taken into custody without a warrant on the belief that the
20 minor has committed a misdemeanor.

21 In determining which disposition of the minor to make, the
22 officer shall prefer the alternative which least restricts the minor's
23 freedom of movement, provided that alternative is compatible with
24 the best interests of the minor and the community.

25 SEC. 2. Section 626.2 is added to the Welfare and Institutions
26 Code, to read:

27 626.2. (a) An officer who takes a minor suspected of having
28 committed a misdemeanor into temporary custody under the
29 provisions of Section 625 may issue a civil citation against the
30 minor if the minor ~~admits to having committed the misdemeanor~~
31 ~~and~~ has not previously committed an offense. Upon issuing a civil
32 citation under this section, the officer shall notify the probation
33 department of the county in which the civil citation was issued,
34 the prosecutor, the minor's parent or guardian, and the victim of
35 the offense.

36 (b) The minor shall report to the county probation department
37 within seven days after the civil citation was issued.

38 (c) The county probation department shall conduct a risk and
39 needs assessment of the minor. Following that assessment, the
40 probation department shall require the minor to serve no more than

1 50 hours of community service, and may require the minor to
2 participate in intervention services, including counseling, substance
3 abuse treatment, and mental health treatment. At the conclusion
4 of the minor's civil citation program, the probation department
5 shall prepare and maintain a report of the minor's participation in
6 the program.

7 (d) If the minor fails to report to the probation department, fails
8 to complete his or her community service hours, fails to comply
9 with any assigned intervention services, or commits a subsequent
10 offense, the probation department shall present the affidavit
11 describing the facts constituting the original misdemeanor to the
12 prosecuting attorney as provided by Section 653.5.

13 (e) The minor may elect to refuse the civil citation and to have
14 his or her case processed as provided in Section 626 at any time
15 before the minor's civil citation program is completed.

16 SEC. 3. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.